

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

**MPCA KING OF SPADES, ETC.,
ET AL.,**

Plaintiffs,

V.

**T.E.C. 2 BROADCASTING, INC.,
ET AL.,**

Defendants.

Case No. 1:11CV00080

OPINION AND ORDER

By: James P. Jones
United States District Judge

Gary A. Rosen, Law Offices of Gary A. Rosen, P.C., Ardmore, Pennsylvania, and Howard C. McElroy, McElroy, Hodges, Caldwell & Thiessen, Abingdon, Virginia, for Plaintiffs; Larry D. Perry, Knoxville, Tennessee, and R. Wayne Austin, Scyphers & Austin, P.C., Abingdon, Virginia, for Defendants.

The individual defendant Thomas E. Copenhaver has moved for summary judgment in his favor in this copyright infringement case. Upon consideration of the record, including extracts from his deposition, I find that Copenhaver has not shown that there are no genuine issues of material fact as to his vicarious liability for the alleged acts of infringement by the radio station of which he is president and sole shareholder. *See CoStar Group, Inc. v. LoopNet, Inc.*, 373 F.3d 544, 550 (4th Cir. 2004); *Range Road Music, Inc. v. East Coast Foods, Inc.*, 668 F.3d 1148, 1155-56 (9th Cir. 2012). Accordingly, summary judgment in his favor is not appropriate. *See* Fed. R. Civ. P. 56(a).

For these reasons, Defendant Copenhaver's Motion for Summary Judgment (ECF No. 46) is DENIED.

It is so **ORDERED**.

ENTER: June 10, 2012

/s/ James P. Jones
United States District Judge